

POLICIES AND PROCEDURES REGARDING PROPERTY OWNED BY HOMELESS PERSONS THAT IS IMPOUNDED FOR STORAGE IN A PUBLIC PLACE OR FOR SAFEKEEPING PURSUANT TO AN ARREST.

1. Defined Terms

All capitalized terms used in this agreement (including “Personal Property,” “Stored,” and “Public Area”) are intended to have the same meaning as defined by the Anaheim Municipal Code.

2. Enforcement of Camping and Property Storage Prohibition Ordinance.

- A. With respect to enforcement of Anaheim Municipal Code section 11.10.040 and property belonging to homeless persons, only property that is unattended (and reasonably appears to be unattended for longer than a momentary basis) shall be considered for impound. Such property shall not be impounded until Anaheim complies with the notice requirements set forth in section 3 below.
- B. By accepting this agreement, Anaheim agrees to abide by its terms and implement appropriate policy directives and training materials sufficient for compliance.

3. Notice Prior to Impoundment

- A. Except in the circumstances set forth in section 3.B below, the City will, prior to impounding Personal Property of homeless persons pursuant to Anaheim Municipal Code section 11.10.040, provide readily visible written notice that unlawfully Stored property will be impounded, as follows:
 - 1) With respect to property Stored in any Public Area that does not close, the City shall securely affix a written notice to the property stating that if the property remains unattended and is not removed from the Public Area within 24 hours, the property will be impounded.
 - 2) With respect to property Stored in any Public Area that closes to the public during certain hours and has one or more signs stating that any personal property stored in the Public Area will be impounded (such as Anaheim public parks, public libraries, police stations, and City Hall), the City shall:

- a. Upon finding Stored property when the Public Area is open to the public, securely affix a written notice to the property stating that if the property is not removed it may be subject to impound when the Public Area closes.
 - b. Upon finding Stored property when the Public Area is closed to the public, impound the property.
- 3) All written notices affixed to property will state the reason it is subject to impoundment, such as the relevant Anaheim Municipal Code section, and shall also specify a date and time when the property will be impounded. When property is subject to impoundment pursuant to Anaheim Municipal Code section 11.10.040, an additional written notice shall be placed at the location where the property was impounded with instructions for the owner to retrieve the impounded property.

B. The City may impound Personal Property in a public place immediately if:

- (1) it presents a threat to public health or safety, including potential illness, infection, physical injury, or damage to property;
- (2) it significantly impedes vehicular or pedestrian traffic on a public thoroughfare (such as an alley, street or sidewalk);
- (3) it is contraband, including drug-related paraphernalia, constitutes evidence in a criminal investigation, or evidence of a crime, other than a violation of Anaheim Municipal Code sections 11.10.030 and 11.10.040(a);
- (4) it is left in a public park or public facility at the time the park or facility is closed to the public; or
- (5) it is reasonably believed to belong to a person being arrested and is evidence of a crime and/or in need of safekeeping.

4. Impoundment Procedures

When the City impounds Personal Property of homeless persons, the following procedures apply:

- A. Reasonable care will be used not to damage the impounded property.

- B. Unless infeasible, a City employee will take one or more photographs, sufficient to reasonably reflect the items of property that are in plain view, prior to impoundment.
- C. Items of property impounded, including those subject to disposal, shall be appropriately documented, including by list of items reasonably identifying the property, as well as digital photographs reflecting the exterior of impounded items. Impounded items that might contain other items, such as closed suitcases, backpacks and storage bags, will not be opened for the purpose of listing or photographing their contents, and remain subject to applicable constitutional protections. All impounded property remains subject to search to the extent provided by applicable law.
- D. If an owner is present and/or subject to arrest when property is being impounded, the City will inform the owner, and when feasible provide clear and accurate written instructions, regarding how the impounded property may be reclaimed.
- E. If an owner is present when property is being impounded, and allowing retrieval of items prior to impoundment would not impair police officer safety, the City shall advise the owner that he/she may retrieve essential living items such as valuables, money, medications, credit and benefit cards, personal identification material, items that are of significant emotional, sentimental or religious value, and items reasonably necessary to protect against the elements.

5. Storage of Homeless Persons' Impounded Property

- A. The City currently stores impounded property at the Anaheim Community Church (2930 W. Ball Rd.), a City facility (1015-19 E. Vermont) and the Lamb of God Lutheran Church (621 S. Sunkist St.). If the number or location of storage facilities changes within three years of the date of this agreement, the City agrees to notify Plaintiffs' counsel in writing within 30 days.
- B. The City will maintain records of impounded property that indicate the date and location of the impoundment, the owner's name if known to the City, and the location of the storage facility where the property is stored.
- C. When feasible, impounded property will be placed into clear plastic bags, which will be sealed or otherwise fully closed prior to placement in storage. The City will make reasonable efforts to use and maintain a supply of clear plastic bags at its storage facilities for use in implementing this agreement.

- D. To the extent storage space is available, impounded property (that does not constitute evidence or contraband) shall be stored at the facility that is geographically closest to the location where the property was impounded.
- E. Property impounded from a public place shall be stored by the City for no fewer than ninety (90) days unless subject to immediate disposal as described in section 5.G below. In the event an owner of impounded property is physically unable, because that individual is incarcerated or admitted to a hospital to retrieve impounded property within 90 days, the City will consider an appropriate extension of time for retrieval, but in no event shall the City be required to store impounded property in excess of 120 days.
- F. The City will not engage in the indiscriminate or summary destruction of impounded property.
- G. The City may elect to dispose of impounded property in lieu of storing it only if:
 - (1) an item constitutes a weapon, or is contraband (for reasons other than a violation of Anaheim Municipal Code sections 11.10.030 and 11.10.040), including drug-related paraphernalia; or
 - (2) an item presents a threat to public health or safety, including items that cannot reasonably be handled by City employees or stored with other impounded property without presenting an ongoing threat of contamination. Generally, such items include materials that appear soiled with urine or excrement, infested with insects or vermin, biohazardous, contagious, moldy, perishable or emit a strong foul odor. The City shall not dispose of impounded property merely because it is not dry or clean, but rather only if the condition of an item is such that storing it would create risk of: (i) harm to the health of persons coming into contact with the item; or (ii) contamination of other stored property that cannot reasonably be resolved by storing the property in a sealed and/or separate container or clear plastic bag. The City is not required dry or clean impounded property prior to storage.
- H. Any items disposed of remain subject to 4.C above, requiring written and photographic documentation of the property disposed.
- I. In the event the City disposes of impounded bedding materials pursuant to sections 5.F and 5.G above, the City shall offer the owner a new emergency thermal blanket, either when the owner is released from custody or when other property is retrieved.

6. Process for Reclaiming Property

- A. Except for property subject to disposal under section 5.G, and property that is evidence in a pending criminal investigation or prosecution (for which reclamation is governed by existing law and procedures), impounded Personal Property of homeless persons shall promptly be made available for reclamation as set forth in this section.
- B. Impounded Personal Property shall be retrieved by appointment, Monday through Friday between 8:00 a.m. and 5:00 p.m., except for City holidays. A person seeking to retrieve property may make an appointment by calling 714-765-1849, or by using the toll-free courtesy phone in the lobby of the Anaheim Police Department (425 S. Harbor Blvd, Anaheim). The City will endeavor to schedule property retrieval to occur within one business day of an initial appointment request, or any request to reschedule that is received at least two hours before an appointment. The City will also consider in good faith any reasonable request for retrieval of impounded property on an expedited basis. If an owner fails to timely seek rescheduling and does not appear within one hour after the time of the appointment, rescheduling will occur subject to the City's staffing allocation and a further appointment may not be available within one business day.
- C. The City shall maintain a record showing where each owner's impounded property is being stored. When an owner requests an appointment for retrieval, the City shall promptly advise the owner of the location of the storage facility where the subject property is being stored.
- D. Impounded Personal Property may be reclaimed by the owner or his/her representative, subject to verification of the person's identity and authority to reclaim the property.
- E. A list of items impounded and corresponding digital photographs will be made available for review by persons reclaiming impounded property. The City will not be in violation of this agreement if the photographs are not available for review because the City accommodated a request by the owner to retrieve property on an expedited basis.
- F. The City will document the return of the property to the owner with written and/or photographic evidence. The owner or owner's representative may be asked to acknowledge which items of Personal Property were retrieved.

- G. If the amount of impounded Personal Property is verified by the City to be too voluminous for retrieval by the owner or owner's representative on a single occasion, a second appointment may be made within the 90-day storage period using the process set forth in section 6.B above.
- H. Upon request by homeless persons retrieving property impounded in connection with an alleged violation of Anaheim Municipal Code sections 7.28.010, 11.10.030, 11.10.040, 13.08.020.190, or similar property-related violation, the City will provide transportation assistance and/or make reasonable modifications to the above process to facilitate the reclamation of impounded property. With respect to any other alleged violations of law, the City will exercise its discretion regarding requests for transportation assistance.

7. Loss of Property Impounded by the City:

- A. Persons who have a claim for loss of property impounded by the City that was destroyed or otherwise not made available for reclamation by the owner in contravention of these procedures may file a claim against the City through its existing administrative process. The City shall make claim forms, containing instructions for filing, available at the facilities where impounded property is stored. The City will respond promptly to any such claims.
- B. The City will make every reasonable effort to investigate and recover any lost property.

8. Citations and Convictions Under Anaheim Municipal Code 11.10.030 and 11.10.040

The City agrees to reasonably cooperate with Plaintiffs' counsel's efforts to expunge convictions of any plaintiff for a violation of Anaheim Municipal Code 11.10.030 and 11.10.040 received on or after January 1, 2016, if any.

9. Dispute Resolution Process

- A. The Parties agree that the Court will have the authority to enforce the terms of this Agreement and resolve disputes as they may arise. The Parties agree that they will, prior to contacting the Court, exhaust all reasonable efforts to resolve any such disputes, giving due regard to concerns about any imminent risks to health or safety. When a dispute is presented to the Court the parties shall make all efforts to have the dispute heard by the Court during normal business hours, but understand that the

timing of the hearing may be dependent upon (1) the Court's availability, and (2) any exigent circumstances.

- B. The City will make available for review relevant inventories, documentation and photographs of property to individuals with claims regarding property and their authorized representatives.

10. Anaheim Municipal Code 11.10.040

The City agrees to evaluate Anaheim Municipal Code section 11.10.040, and to consider potential changes to the ordinance consistent with certain terms of this agreement. This section does not legally obligate the City to change the ordinance.

11. Additional Terms

- A. All City employees involved with impounding, storage, and retrieval of property will continue to be trained on compliance and implementation of the terms of this agreement. The City also acknowledges its obligations regarding the reasonable accommodation process under the Americans with Disabilities Act.
- B. The City will consider in good faith any requests by homeless individuals with disabilities for reasonable accommodations concerning these procedures, in order to afford equal access to the City's programs, services, and activities if and as required by law.
- C. The City acknowledges its ongoing commitment to upholding and integrating its "City of Kindness" principle into its policies and practices with the goal of supporting the health, safety, and economic wellbeing of all its residents.

12. Continuing Jurisdiction

The District Court shall retain jurisdiction over this action and its parties until January 15, 2022, for purposes of enforcing and modifying the terms of this agreement and overseeing the Dispute Resolution process set forth in Section 9. Plaintiffs may seek an extension (by stipulation of the parties or by noticed motion demonstrating good cause) of the period of jurisdiction and oversight, subject to the District Court's approval.